

Union Calendar No. 375

115TH CONGRESS
2D SESSION

H. R. 4568

[Report No. 115–502]

To amend the Geothermal Steam Act of 1970 to promote timely exploration for geothermal resources under geothermal leases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2017

Mr. LABRADOR (for himself and Mr. GOSAR) introduced the following bill;
which was referred to the Committee on Natural Resources

JANUARY 9, 2018

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on December 6, 2017]

A BILL

To amend the Geothermal Steam Act of 1970 to promote timely exploration for geothermal resources under geothermal leases, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Enhancing Geothermal*
 5 *Production on Federal Lands Act”.*

6 **SEC. 2. GEOTHERMAL PRODUCTION ON FEDERAL LANDS.**

7 *The Geothermal Steam Act of 1970 (30 U.S.C. 1001*
 8 *et seq.) is amended by adding at the end the following:*

9 **“SEC. 30. GEOTHERMAL EXPLORATION TEST PROJECTS.**

10 **“(a) DEFINITION OF GEOTHERMAL EXPLORATION**
 11 **TEST PROJECT.—***In this section, the term ‘geothermal ex-*
 12 *ploration test project’ means the drilling of a well to test*
 13 *or explore for geothermal resources on lands for which the*
 14 *Secretary has issued a lease under this Act, that—*

15 *“(1) is carried out by the holder of the lease;*

16 *“(2) causes—*

17 *“(A) less than 5 acres of soil or vegetation*
 18 *disruption at the location of each geothermal ex-*
 19 *ploration well; and*

20 *“(B) not more than an additional 5 acres*
 21 *of soil or vegetation disruption during access or*
 22 *egress to the test site;*

23 *“(3) is developed—*

24 *“(A) less than 9 inches in diameter;*

1 “(B) in a manner that does not require off-
2 road motorized access other than to and from the
3 well site along an identified off-road route;

4 “(C) without construction of new roads
5 other than upgrading of existing drainage cross-
6 ings for safety purposes;

7 “(D) with the use of rubber-tired digging or
8 drilling equipment vehicles; and

9 “(E) without the use of high-pressure well
10 stimulation;

11 “(4) is completed in less than 90 days, including
12 the removal of any surface infrastructure from the
13 site; and

14 “(5) requires the restoration of the project site
15 within 3 years of the date of first exploration drilling
16 to approximately the condition that existed at the
17 time the project began, unless the site is subsequently
18 used as part of energy development under the lease.

19 “(b) CATEGORICAL EXCLUSION.—

20 “(1) IN GENERAL.—Unless extraordinary cir-
21 cumstances exist, a project that the Secretary deter-
22 mines under subsection (c) is a geothermal explo-
23 ration test project shall be categorically excluded from
24 the requirements for an environmental assessment or
25 an environmental impact statement under the Na-

1 *tional Environmental Policy Act of 1969 (42 U.S.C.*
 2 *4321 et seq.) or section 1508.4 of title 40, Code of*
 3 *Federal Regulations (or a successor regulation).*

4 “(2) *EXTRAORDINARY CIRCUMSTANCES DEFINI-*
 5 *TION.—In this subsection, the term ‘extraordinary*
 6 *circumstances’ has the same meaning given such term*
 7 *in the Department of the Interior Departmental Man-*
 8 *ual, 516 DM 2.3A(3) and 516 DM 2, Appendix 2 (or*
 9 *successor provisions).*

10 “(c) *PROCESS.—*

11 “(1) *REQUIREMENT TO PROVIDE NOTICE.—A*
 12 *leaseholder shall provide notice to the Secretary of the*
 13 *leaseholder’s intent to carry out a geothermal explo-*
 14 *ration test project at least 30 days before the start of*
 15 *drilling under the project.*

16 “(2) *REVIEW AND DETERMINATION.—Not later*
 17 *than 10 days after receipt of a notice of intent under*
 18 *paragraph (1), the Secretary shall, with respect to the*
 19 *project described in the notice of intent—*

20 “(A) *determine if the project qualifies for a*
 21 *categorical exclusion under subsection (b); and*

22 “(B) *notify the leaseholder of such deter-*
 23 *mination.*

24 “(3) *OPPORTUNITY TO REMEDY.—If the Sec-*
 25 *retary determines under paragraph (2)(A) that the*

1 *project does not qualify for a categorical exclusion*
 2 *under subsection (b), the Secretary shall—*

3 *“(A) include in such notice clear and de-*
 4 *tailed findings on any deficiencies in the project*
 5 *that resulted in such determination; and*

6 *“(B) allow the leaseholder to remedy any*
 7 *such deficiencies and resubmit the notice of in-*
 8 *tent under paragraph (1).”.*

9 **SEC. 3. GEOTHERMAL LEASING PRIORITY AREAS.**

10 *The Geothermal Steam Act of 1970 (30 U.S.C. 1001*
 11 *et seq.) is further amended by adding at the end the fol-*
 12 *lowing:*

13 **“SEC. 31. GEOTHERMAL LEASING PRIORITY AREAS.**

14 *“(a) DEFINITION OF COVERED LAND.—In this section,*
 15 *the term ‘covered land’ means land that is—*

16 *“(1) Federal land; and*

17 *“(2) not excluded from the development of geo-*
 18 *thermal energy under—*

19 *“(A) a land use plan established under the*
 20 *Federal Land Policy and Management Act of*
 21 *1976 (43 U.S.C. 1701 et seq.); or*

22 *“(B) any other Federal law.*

23 *“(b) DESIGNATION OF GEOTHERMAL LEASING PRI-*
 24 *ORITY AREAS.—The Secretary, in consultation with the*
 25 *Secretary of Energy, shall designate portions of covered*

1 *land as geothermal leasing priority areas as soon as prac-*
 2 *ticable, but not later than 5 years, after the date of the en-*
 3 *actment of this section.*

4 “(c) *CRITERIA FOR SELECTION.*—*In determining*
 5 *which covered lands to designate as geothermal leasing pri-*
 6 *ority areas under subsection (b), the Secretary, in consulta-*
 7 *tion with the Secretary of Energy, shall consider if—*

8 “(1) *the covered land is preferable for geothermal*
 9 *leasing;*

10 “(2) *production of geothermal energy on such*
 11 *land is economically viable, including if such land*
 12 *has access to methods of energy transmission; and*

13 “(3) *the designation would be in compliance*
 14 *with section 202 of the Federal Land Policy and*
 15 *Management Act of 1976 (43 U.S.C. 1712), including*
 16 *subsection (c)(9) of that section.*

17 “(d) *REVIEW AND MODIFICATION.*—*Not less frequently*
 18 *than once every 10 years, the Secretary shall—*

19 “(1) *review covered land and, if appropriate,*
 20 *make additional designations of geothermal leasing*
 21 *priority areas; and*

22 “(2) *review each area designated as a geothermal*
 23 *leasing priority area under this section, and, if ap-*
 24 *propriate, remove such designation.*

1 “(e) *PROGRAMMATIC ENVIRONMENTAL IMPACT STATE-*
2 *MENT.*—

3 “(1) *INITIAL DESIGNATIONS.*—*No later than one*
4 *year after the initial designation of a geothermal leas-*
5 *ing priority area, the Secretary shall prepare a sup-*
6 *plement to any final programmatic environmental*
7 *impact statement for geothermal leasing that is the*
8 *most recently finalized such statement with respect to*
9 *covered land designated as a geothermal leasing pri-*
10 *ority area under subsection (b).*

11 “(2) *SUBSEQUENT DESIGNATIONS.*—*Each des-*
12 *ignation of a geothermal leasing priority area under*
13 *subsection (d) shall be included in a programmatic*
14 *environmental impact statement for geothermal leas-*
15 *ing or in a supplement to such a statement.*

16 “(3) *CONSULTATIONS.*—*In developing any pro-*
17 *grammatic environmental impact statement for geo-*
18 *thermal leasing or supplement to such a statement*
19 *under this section, the Secretary shall consult, on an*
20 *ongoing basis, with appropriate State, Tribal, and*
21 *local governments, transmission infrastructure owners*
22 *and operators, developers, and other appropriate enti-*
23 *ties.*

24 “(4) *PROCEDURE.*—*The Secretary may not delay*
25 *issuing a permit or holding a lease sale under this*

1 *Act because the supplement required under paragraph*
 2 *(1) has not been finalized by the Secretary.*

3 “(f) *COMPLIANCE WITH NEPA.*—*If the Secretary de-*
 4 *termines that the designation of a geothermal leasing pri-*
 5 *ority area has been sufficiently analyzed by a pro-*
 6 *grammatic environmental impact statement, the Secretary*
 7 *shall not prepare any additional analysis under the Na-*
 8 *tional Environmental Policy Act of 1969 (42 U.S.C. 4321*
 9 *et seq.) with respect to geothermal lease sales for such geo-*
 10 *thermal leasing priority area.”.*

11 **SEC. 4. FACILITATION OF COPRODUCTION OF GEO-**
 12 **THERMAL ENERGY ON OIL AND GAS LEASES.**

13 *Section 4(b) of the Geothermal Steam Act of 1970 (30*
 14 *U.S.C. 1003(b)) is amended by adding at the end the fol-*
 15 *lowing:*

16 “(4) *LAND SUBJECT TO OIL AND GAS LEASE.*—
 17 *Land under an oil and gas lease issued pursuant to*
 18 *the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the*
 19 *Mineral Leasing Act for Acquired Lands (30 U.S.C.*
 20 *351 et seq.) that is subject to an approved application*
 21 *for permit to drill and from which oil and gas pro-*
 22 *duction is occurring may be available for noncompeti-*
 23 *tive leasing under subsection (c) by the holder of the*
 24 *oil and gas lease—*

1 “(A) on a determination that geothermal
2 energy will be produced from a well producing
3 or capable of producing oil and gas; and

4 “(B) in order to provide for the coproduc-
5 tion of geothermal energy with oil and gas.”.

6 **SEC. 5. NONCOMPETITIVE LEASING OF ADJOINING AREAS**
7 **FOR DEVELOPMENT OF GEOTHERMAL RE-**
8 **SOURCES.**

9 Section 4(b) of the Geothermal Steam Act of 1970 (30
10 U.S.C. 1003(b)) is further amended by adding at the end
11 the following:

12 “(5) ADJOINING LAND.—

13 “(A) DEFINITIONS.—In this paragraph:

14 “(i) FAIR MARKET VALUE PER ACRE.—

15 The term ‘fair market value per acre’ means
16 a dollar amount per acre that—

17 “(I) except as provided in this
18 clause, shall be equal to the market
19 value per acre (taking into account the
20 determination under subparagraph
21 (B)(iii) regarding a valid discovery on
22 the adjoining land) as determined by
23 the Secretary under regulations issued
24 under this paragraph;

1 “(II) shall be determined by the
2 Secretary with respect to a lease under
3 this paragraph, by not later than the
4 end of the 180-day period beginning on
5 the date the Secretary receives an ap-
6 plication for the lease; and

7 “(III) shall be not less than the
8 greater of—

9 “(aa) 4 times the median
10 amount paid per acre for all land
11 leased under this Act during the
12 preceding year; or

13 “(bb) \$50.

14 “(ii) *INDUSTRY STANDARDS.*—The
15 term ‘industry standards’ means the stand-
16 ards by which a qualified geothermal profes-
17 sional assesses whether downhole or flowing
18 temperature measurements with indications
19 of permeability are sufficient to produce en-
20 ergy from geothermal resources, as deter-
21 mined through flow or injection testing or
22 measurement of lost circulation while drill-
23 ing.

24 “(iii) *QUALIFIED FEDERAL LAND.*—
25 The term ‘qualified Federal land’ means

1 *land that is otherwise available for leasing*
2 *under this Act.*

3 “(iv) *QUALIFIED GEOTHERMAL PRO-*
4 *FESSIONAL.—The term ‘qualified geo-*
5 *thermal professional’ means an individual*
6 *who is an engineer or geoscientist in good*
7 *professional standing with at least 5 years*
8 *of experience in geothermal exploration, de-*
9 *velopment, or project assessment.*

10 “(v) *QUALIFIED LESSEE.—The term*
11 *‘qualified lessee’ means a person who may*
12 *hold a geothermal lease under this Act (in-*
13 *cluding applicable regulations).*

14 “(vi) *VALID DISCOVERY.—The term*
15 *‘valid discovery’ means a discovery of a geo-*
16 *thermal resource by a new or existing slim*
17 *hole or production well, that exhibits*
18 *downhole or flowing temperature measure-*
19 *ments with indications of permeability that*
20 *are sufficient to meet industry standards.*

21 “(B) *AUTHORITY.—An area of qualified*
22 *Federal land that adjoins other land for which a*
23 *qualified lessee holds a legal right to develop geo-*
24 *thermal resources may be available for a non-*

1 *competitive lease under this section to the quali-*
2 *fied lessee at the fair market value per acre, if—*

3 *“(i) the area of qualified Federal*
4 *land—*

5 *“(I) consists of not less than 1*
6 *acre and not more than 640 acres; and*

7 *“(II) is not already leased under*
8 *this Act or nominated to be leased*
9 *under subsection (a);*

10 *“(ii) the qualified lessee has not pre-*
11 *viously received a noncompetitive lease*
12 *under this paragraph in connection with*
13 *the valid discovery for which data has been*
14 *submitted under clause (iii)(I); and*

15 *“(iii) sufficient geological and other*
16 *technical data prepared by a qualified geo-*
17 *thermal professional has been submitted by*
18 *the qualified lessee to the applicable Federal*
19 *land management agency that would lead*
20 *individuals who are experienced in the sub-*
21 *ject matter to believe that—*

22 *“(I) there is a valid discovery of*
23 *geothermal resources on the land for*
24 *which the qualified lessee holds the*

1 *legal right to develop geothermal re-*
2 *sources; and*

3 “(II) *that geothermal feature ex-*
4 *tends into the adjoining areas.*

5 “(C) *DETERMINATION OF FAIR MARKET*
6 *VALUE.—*

7 “(i) *IN GENERAL.—The Secretary*
8 *shall—*

9 “(I) *publish a notice of any re-*
10 *quest to lease land under this para-*
11 *graph;*

12 “(II) *determine fair market value*
13 *for purposes of this paragraph in ac-*
14 *cordance with procedures for making*
15 *those determinations that are estab-*
16 *lished by regulations issued by the Sec-*
17 *retary;*

18 “(III) *provide to a qualified lessee*
19 *and publish, with an opportunity for*
20 *public comment for a period of 30*
21 *days, any proposed determination*
22 *under this subparagraph of the fair*
23 *market value of an area that the quali-*
24 *fied lessee seeks to lease under this*
25 *paragraph; and*

1 “(IV) provide to the qualified les-
2 see and any adversely affected party
3 the opportunity to appeal the final de-
4 termination of fair market value in an
5 administrative proceeding before the
6 applicable Federal land management
7 agency, in accordance with applicable
8 law (including regulations).

9 “(ii) *LIMITATION ON NOMINATION.*—
10 After publication of a notice of request to
11 lease land under this paragraph, the Sec-
12 retary may not accept under subsection (a)
13 any nomination of the land for leasing un-
14 less the request has been denied or with-
15 drawn.

16 “(iii) *ANNUAL RENTAL.*—For purposes
17 of section 5(a)(3), a lease awarded under
18 this paragraph shall be considered a lease
19 awarded in a competitive lease sale.

20 “(D) *REGULATIONS.*—Not later than 270
21 days after the date of enactment of this para-
22 graph, the Secretary shall issue regulations to
23 carry out this paragraph.”.

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